

FILED BY *Jf* D.C.

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05 MAY -2 PM 2:08 IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION

15 APR 29 PM 2:18

UNITED STATES OF AMERICA,  
CLERK U.S. DIST. CT.  
W. OF TN, MEMPHIS

Robert R. Di Tono  
CLERK U.S. DIST. CT.  
W.D. OF TN, MEMPHIS

vs.

No. 04-20339

LE'ANDRE BARNER,  
Defendant.

### MOTION TO WITHDRAW

Comes now counsel for the Defendant, William D. Massey and Lorna S. McClusky of the Law Office of Massey McClusky and respectfully request that they be allowed to withdraw as counsel for Mr. Barner. The contract regarding representation entered into in this cause specifically excludes appeal or re-trial. The pertinent terms of the agreement are:

**APPEAL OR RETRIAL:** It is further understood that the fee agreed upon herein does not include services for an appeal or re-trial, if such should become necessary, unless specifically stated herein. **In the event of an appeal or retrial, a new and separate agreement will be entered into by the parties and a new retainer fee paid to THE LAW OFFICE.** THE LAW OFFICE shall be allowed to withdraw from further representation in the event a new retainer fee is not paid within a reasonable time prior to the appeal or retrial. (Emphasis in original.)

A family member retained counsel to represent Mr. Barner at the original trial. While discussions about retaining counsel for the retrial were taking place with Mr. Barner's family, counsel continued to work with Mr. Barner so that his rights would not go unprotected.

Mr. Barner's family has stated that they will not be able to assist him in retaining counsel and current counsel will not be able to undertake trial representation *pro bono*. Mr. Barner also has new charges unrelated to the case *sub judice* for which a CJA panel member, Stefen Schreiner, has been appointed. Counsel respectfully suggests to the Court that counsel be allowed to withdraw and that

**MOTION GRANTED**

DATE 5-2-2005

*Bernice Bouie Donald*

BERNICE BOUIE DONALD  
U.S. DISTRICT JUDGE

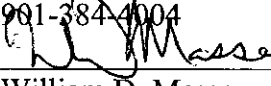
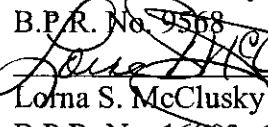
(35)

This document entered on the docket sheet in compliance with Rule 55 and/or 32(b) FRCP on 5-2-05

Mr. Stefan Schreiner be appointed to represent Mr. Barner in this matter.


Respectfully submitted this 29<sup>th</sup> day of April, 2005.

THE LAW OFFICE OF  
MASSEY MCCLUSKY  
3074 East Street  
Memphis, TN 38128  
901-384-4004

  
William D. Massey  
B.P.R. No. 9568  
  
Lorna S. McClusky  
B.P.R. No. 16803

#### CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and exact copy of the foregoing has been served, via hand delivery or U.S. mail, postage pre-paid, upon the office of the Assistant United States Attorney, Steve Hall, 167 N. Main, Room 800, Memphis, Tennessee 38103, this the 29<sup>th</sup> day of April, 2005.

  
Lorna S. McClusky



## Notice of Distribution

This notice confirms a copy of the document docketed as number 35 in case 2:04-CR-20339 was distributed by fax, mail, or direct printing on May 2, 2005 to the parties listed.

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Ste. 800  
Memphis, TN 38103

Honorable Bernice Donald  
US DISTRICT COURT